IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Original Jurisdiction

Dated: Nainital the 22nd day of November, 2002

Criminal Misc. Bail Application Number 1243of 2002

Order on the Bail Application

CRIMINAL SIDE
Chanchal Singh son of late Nathu Singh, r/o village Gorkhet, Patwari Area, Bastoli, Tehsil Bageshwar, District Bageshwar

.....Applicant(s)

Versus

State of Uttaranchal. .....Opposite Party

Arising out of- Case crime no.5 of 2002,
Under sections 504, 120-B, 147, 302, 304 of I.P.C.,
P. S. Patwari Area-Bastoli,
Tehsil & District Bageshwar

By the Court

Hon'ble Irshad Hussain, J.

Heard the learned counsel for the applicant-accused and Sri D.K.Sharma, Additional Government Advocate.

Applicant-accused is the assailant of the victim. His specific role has been assigned in the F.I.R.

Learned counsel for the applicant-accused drew attention to some discrepancies regarding the time of the occurrence as appear in the written F.I.R. and the check F.I.R. and also the crime number in the check F.I.R. and the copy of the charge-sheet submitted with the application. Attention was also drawn on the duration of the death as mentioned the postmortem report and the state of rigour mortis. Learned counsel contended that the rigor mortis was found present on both the extremities which indicate that probably death had occurred more than two days ago. Learned counsel placed reliance on the medical jurisprudence of learned author-Modi. I have considered all these aspects. It need to be mentionned here that all these matters have to be considered at the time of the trial when the concerned witnesses will have opportunity to explain as to how there were some cuttings etc. It also need to be mentioned that the medical officer had opined that the death had occurred about a day ago. Postmortem was conducted on 12.04.2002 at 1:40 P.M. which corresponds to the date and time of the occurrence as given by the prosecution and supported by the witnesses whose statements have been furnished with the bail application. One witness was injured at the time of the occurrence and her statement shall be material in regard to the occurrence that took place. Considering totality of circumstances of the case and the role assigned to the applicant-accused in my opinion it is not a fit case for bail.

The observations made above shall have no bearing on the outcome of the trial after evidence.

The observations made above shall have no bearing on the outcome of the trial after evidence.

The bail application is rejected.

(Irshad Hussain, J.)

22.11.02./B.